



Belgium

International Comparison of Insurance Taxation*
May 2009

Belgium – General Insurance

Definition	Accounting	Taxation
Definition of property and casualty insurance company	A company that performs non-life and casualty insurance operations.	Not defined by tax legislation, reference is consequently made to insurance and regulatory laws.
Commercial Accounts/Tax and Regulatory Returns	Accounting	Taxation
Basis for the company's commercial accounts	Special regulations set out in the Royal Decree of 17 November 1994. In principle, the accounting period is the calendar year. The definitions of the various types of technical reserves are also specified in the Regulatory Act (9 July 1975) and the General Rules (Royal Decree of 22 February 1991).	Taxation based on statutory accounts. However, some adjustments are made on the basis of the tax legislation (e.g. some expenses are deemed to be disallowed expenses for tax purposes). Some specific rules for the deduction of technical reserves may also exist (e.g. general provisions are not tax-deductible).
Regulatory return	Returns to the Insurance Regulator ('Commission Bancaire, Financière et des Assurances', 'Commissie voor het Bank-, Financie- en Assurantiewezen' – CBFA) are made as follows: <ul style="list-style-type: none"> Quarterly: the quarterly reporting consists of a balance sheet and an interim solvency margin, as well as a summary of qualifying assets and technical reserves. Annually: annual accounts, additional information (solvency margin, adjusted solvency margin (on a consolidated basis), inter-company transactions, summary of qualifying assets, etc.) and annual statistics. 	N/A.
Tax return	N/A.	An annual tax return must, in principle, be filed with the tax authorities by the end of the sixth month following the closing date of the accounting year.
Technical Reserves/ Equalization Reserves	Accounting	Taxation
Unearned premiums reserve (UPR)	Calculated by time-apportionment (policy-by-policy, so-called 8th, 12th and 24th flat-rate methods), pro rata temporis method or global method. Based on gross premiums (less taxes) from which only related commissions may be deducted. To be adjusted, if necessary, for premium deficiency.	Deduction, policy-by-policy (up to the quota of gross reinsurance premiums, less the acquisition commissions to cover the charge of claims, administration costs and investment management costs), further to a pro rata temporis method. However, in certain circumstances, the tax authorities accept the flat rate '24th' time-apportionment method.
Unpaid claims reported	Corresponds to the total estimated cost of the settlement of all incurred damages after deduction of already paid out damages.	Deductible if the allowance for damages is properly estimated.
Outstanding loss reserves	Reserves for unpaid claims, claims expenses and claims handling expenses. These are determined on the basis of expert claim assessments and/or other estimates. Different methods are used: case-by-case method, global or flat-rate method, or any other statistical method.	Unpaid claims are deductible on a case-by-case basis or on the basis of an average cost if duly supported by statistical evidence.

Belgium - General Insurance (continued)

Technical Reserves/ Equalisation Reserves [continued]	Accounting [Continued]	Taxation [Continued]
Claims incurred but not reported (IBNR)	<p>IBNR can be calculated by a review of claims notified after year end.</p> <p>It can also be assessed on the basis of the claims that have been declared late in previous years, or on the basis of any other statistical method.</p>	Are deductible within certain limits, based upon by insurance class of risks calculated on a statistical and historical basis.
Unexpired risks	<p>Recorded together with the unearned premium reserves.</p> <p>To be calculated based on the combined loss ratio.</p>	According to the Belgian tax authorities, taxable in principle.
General contingency/solvency reserves	Provision for longevity risks.	General provisions are not tax deductible.
Equalization / catastrophe reserves	Specific rules have been laid down by the Insurance Regulator. Minimum charge required each year until the target level of the reserve is reached. Specific rules are defined per type of risks.	Tax exempt under certain given conditions.
Expenses/Refunds	Accounting	Taxation
Acquisition expenses	Recorded immediately in the profit and loss (P&L).	Tax deductible in principle.
Loss adjustment expenses on unsettled claims (claims handling expenses)	Credited when earned or may be booked as a receivable if prudently assessed.	Taxed when taken into the P&L account.
Experience-rated refunds	Recorded on the profit and loss account.	In principle tax deductible.
Investments	Accounting	Taxation
Gains and losses on investments	<p>In principle realised gains and losses are recorded in the P&L account.</p> <p>Unrealised capital losses on investments in equity securities are not recorded/ recognised unless they are of a permanent nature. Write-off has to be reversed if later no longer justified.</p> <p>Value allowances on bonds are recorded in case the recuperation of the nominal value is compromised.</p> <p>Unrealised investment gains are not recorded/recognised.</p>	<p>In principle realised capital gains and losses are taxed and deductible, respectively, except for those on shares and SICAVs. Generally capital gains realised on 'good' shares are indeed, in principle, tax exempt in so far as they exceed the amount previously written off on the shares for tax purposes. Realised capital gains on SICAVs are not exempt. Generally write-offs and capital losses on shares, as well as capital losses on SICAVs, are not deductible.</p> <p>As of assessment year 2006, only the net amount of the capital gain (i.e. the gross capital gain minus the costs related to the transaction) is tax exempt.</p> <p>In principle, unrealised gains are taxable and unrealised losses are deductible.</p>
Investment reserves	N/A.	N/A.

Belgium - General Insurance (continued)

Investments [Continued]	Accounting [Continued]	Taxation [Continued]
Investment income	<p>Account for :</p> <ul style="list-style-type: none"> - On an accrual basis: interest income and unearned income (bond and other) - Once declared: on dividends 	<p>Gross investment income (less investment expenses) is taxable. 'Good' dividends may be tax exempt: a 95% dividends-received deduction ('DRD') can be claimed for dividends received if certain conditions are complied with.</p> <p>First, the dividend should be paid on shares qualifying as financial fixed assets as defined in Belgian accounting law – short-term investments are excluded) and booked as such at the time the dividend is received. These shares must have been held, or will have to be held, in full ownership (not under usufruct) for an uninterrupted period of at least 12 months. The DRD regime will also not be applicable if the taxation condition is not met, notably if the dividend is paid by a tax haven company (i.e. a foreign company that is not subject to a foreign tax similar to Belgian corporate taxation or that is established in a country where the ordinary tax legislation is substantially more advantageous than in Belgium). Other 'taxation' conditions may also apply in the case of redistribution of dividends.</p> <p>Recently, the ECJ rendered the "Cobelfret case" in which it decided that DRD regime is not in line with the Parent-subsidiary directive since it does not allow excess DRD to be carried forward.</p> <p>Interest and other types of income are generally taxable at the standard corporate income tax rate.</p>

Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Premiums paid, claims recovered and claims paid are recorded in the P&L account on a gross basis.	Generally deductible, however some anti-abuse provisions may apply. For example if the transaction is not real or at arm's length, the reinsurance premium paid to a foreign affiliate or a tax haven company will be considered added back to the taxable basis.

Mutual Companies	Accounting	Taxation
Mutual companies (All profits returned to members)	Same principles that apply to P&C insurance companies.	In principle, they are considered as non-profit making companies, only subject to tax on income. Generally, withholding taxes are usually their final tax charge.

Belgium – General Insurance - Other Tax Features

Further corporate tax features	Taxation
Loss carry-overs	All tax losses may be carried forward for an unlimited period.
Foreign branch income	Foreign branch income is taxable at the standard rate (i.e. 33.99%) unless exempted by double-taxation treaty.
Domestic branch income	Domestic branch taxable income is calculated according to the ordinary rules, similar to those applicable to resident entities. However, interest charges paid to the foreign head office are not deductible.
Corporate tax rate	The standard corporate income tax rate is 33,99%
Other tax features	
Premium taxes	<p>Annual premium tax of 9.25% on insurance premiums. For some insurance contracts reduced rates are applicable of 4.4%, 1.40% and 1.10%. Some insurance contracts are exempted, for example reinsurance contracts.</p> <p>Other taxes are amongst others levied on premiums for:</p> <ol style="list-style-type: none"> 1. Workmen's Compensation Insurance: 4.97% contribution to Handicapped Persons Fund; 2. Motor insurance: possible supplementary contributions on premiums as follows: <ul style="list-style-type: none"> - 7.50% for Handicapped Persons Fund; - 0.35% for Red Cross; - 10% for National Health Scheme (reduced to 5% for transport risks). 3. Fire insurance: 6.5%: contribution for Handicapped Persons Fund. <p>The registration duty on capital contributions has been discontinued.</p>
Captive insurance companies	Belgium is not a favoured location for captive insurance companies, as no legislation exists to provide incentives for their set-up. The deductibility of premiums paid to overseas captives may be denied under anti-avoidance provisions, which, inter-alia, counter the transfer of profits by a Belgian company to a less heavily taxed foreign company.
Notional interest deduction	<p>The notional interest deduction consists of a lump-sum tax deduction, calculated on the company's 'adjusted' equity, i.e. the accounting equity (share capital plus its retained earnings) reduced by amongst others the following items:</p> <ul style="list-style-type: none"> • the fiscal net value of own share held by the company/branch • the fiscal net value of financial fixed assets qualifying as "participations and other shares" • the re-evaluation surpluses in respect of assets and capital subsidies. <p>For financial year 2009 (assessment year 2010) the notional interest deduction rate is fixed to 4.473 % of this 'adjusted' equity.</p>

Belgium – Life Insurance

Definition	Accounting	Taxation
Definition of Life Assurance companies	A company that performs life insurance operations.	Not defined in the tax legislation, accordingly, reference is made to the insurance and regulatory laws.
Commercial Accounts/Tax and Regulatory Returns	Accounting	Taxation
Basis for the company's commercial accounts	<p>Special regulations enumerated in the Royal Decree of 17 November 1994. In principle, the accounting period is the calendar year. Definitions of the different types of technical reserves are specified in the Regulatory Act (9 July 1975) and the General Rules (Royal Decree of 22 February 1991).</p> <p>In addition, the method of calculating the mathematical reserves is specified in the Royal Decree of 14 November 2003 on Life Insurance Activities.</p>	<p>Taxation based on statutory accounts. However, some adjustments are made on the basis of the tax legislation (e.g. some expenses are treated as disallowed expenses for tax purposes).</p> <p>Some specific rules for the deduction of technical reserves may also exist (e.g. general provisions are not tax deductible).</p>
Regulatory return	<p>Returns to the Insurance Regulator ('Commission Bancaire, Financière et des Assurances, 'Commissie voor het Bank-, Financie – en Assurantiewezen' – CBFA) are made as follows</p> <ul style="list-style-type: none"> • Quarterly: the quarterly reporting consists of a balance sheet and an interim solvency margin, as well as a summary of qualifying assets and technical reserves. • Annually: annual accounts, additional information (solvency margin, adjusted solvency margin (on a consolidated basis), inter-company transactions, summary of qualifying assets, etc.) and annual statistics. 	N/A.
Tax return	N/A.	An annual tax return must be filed with the tax authorities by the end of the sixth month following the closing date of the accounting year.
General approach to calculation of income	Accounting	Taxation
Allocation of income between shareholders and policyholders	Separate accounting for policyholders' and shareholders' profits within the annual accounts.	A total income approach including overall profit from subscription and investment income. Policyholders' income (including bonuses) is deducted from taxable profits.
Calculation of investment return	Accounting	Taxation
Calculation of investment income and capital gains	Investment income is accounted for on an accrual basis for interest and unearned (bond or other) income and once declared for dividends. Capital gains are recognised as income upon realisation – see remarks on P&C insurance companies.	<p>Gross investment income (less investment expenses) is taxable. 'Good' dividends may be tax exempt: a 95% dividends-received deduction ('DRD') can be claimed for dividends received if certain conditions are complied with. First, the dividend should be paid on shares qualifying as financial fixed assets (as defined in Belgian accounting law – short-term Investments are excluded) and booked as such at the time the dividend is received. These shares must have been held, or will have to be held, in full ownership (not under usufruct) for an uninterrupted period of at least 12 months.</p> <p><i>Continued on next page.</i></p>

Belgium – Life Insurance (continued)

Calculation of investment return [Continued]	Accounting [Continued]	Taxation [Continued]
Calculation of investment income and capital gains [Continued]		<p>The DRD regime will also not be applicable if the taxation condition is not met, notably if the dividend is paid by a tax haven company (i.e. a foreign company that is not subject to a foreign tax similar to Belgian corporate taxation or that is established in a country where the ordinary tax legislation is substantially more advantageous than in Belgium). Other 'taxation' conditions may also apply in the case of redistribution of dividends.</p> <p>Recently, the ECJ rendered the "Cobelfret case" in which it decided that DRD regime is not in line with the Parent-subsidiary directive, since excess DRD may be carried forward. Interest and other types of income are generally taxable at the standard corporate income tax rate.</p>
Calculation of underwriting profits or total income	Accounting	Taxation
Actuarial reserves	<p>Mathematical reserves are maintained per individual case using actuarial methods as defined by law (mortality tables and interest rates).</p> <p>Given the use of guaranteed rates in the Belgian market, to cover the risk of a fall in the financial returns, an additional reserve ('Provision pour aléas financiers') should be established when certain criteria are met. The method of calculating this special reserve is specified by the insurance regulator. The calculation method uses an official reference interest rate as opposed to the interest rate guaranteed by the company.</p>	Tax deductible as long as duly evidenced. The reserve, which aims to cover the interest risk, could be deductible under certain conditions. Although this view is not shared by the tax authorities.
Acquisition expenses	Recorded immediately in the P&L account.	Tax deductible.
Gains and losses on investments	<p>In principle, realised gains and losses are recorded in the P&L account.</p> <p>Unrealised capital losses on investment in equity securities are not recorded/recognised unless they are of a permanent nature. Write-off has to be reversed if later no longer justified.</p> <p>Value-allowances on bonds are recorded in case the recuperation of the nominal value is compromised.</p> <p>Unrealised investment gains are not recorded/recognised.</p> <p>Those investments for which the risk is supported by the policyholder (unit-linked products) are recorded at market value. The fluctuation in market value from one period to another is taken to the income statement.</p>	<p>In principle, realised gains and losses are taxed and deductible, respectively, except for those on shares and SICAVs. Generally capital gains and losses are respectively taxable and deductible. Generally capital gains realised on 'good' shares are in principle tax exempt, in so far as they exceed the amount previously written off on the shares for tax purposes. Generally write-offs and capital losses on shares, as well as capital losses on SICAVs, are not deductible. Beginning in the tax year 2006, only the net amount (i.e. gross capital gain minus costs related to the transaction) is tax exempt. Special rules apply to unit-linked products for share investments.</p>
Reserves against market losses on investments	Unrealised investment losses are not recognised unless they are permanent.	In principle, unrealised losses are deductible when booked, except in the case of shares.

Belgium – Life Insurance (continued)

Calculation of underwriting profits or total income [Continued]	Accounting [Continued]	Taxation [Continued]
Dividend income	Account for once declared: on dividends	<p>Gross investment income (less investment expenses) is taxable. 'Good' dividends may be tax exempt: a 95% dividends-received deduction (DRD) can be claimed for dividends received if certain conditions are complied with. First, the dividend should be paid on shares qualifying as financial fixed assets (as defined in Belgian accounting law – short term investments are excluded) and booked as such at the time the dividend is received. These shares must have been held, or will have to be held, in full ownership (no under usufruct) for an uninterrupted period of at least 12 months.</p> <p>The DRD regime will also not be applicable if the taxation condition is not met, notably if the dividend is paid by a tax haven company (i.e. a foreign company that is not subject to a foreign tax similar to Belgian corporate taxation or that is established in a country where the ordinary tax legislation is substantially more advantageous than in Belgium). Other 'taxation' conditions may also apply in the case of redistribution of dividends.</p> <p>Special rules apply, however, to dividend income from the unit-linked operations.</p> <p>Recently, the ECJ rendered the "Cobelfret case" in which it decided that DRD regime is not in line with the Parent-subsidiary directive. Since then, excess DRD should be carried forward.</p>
Policyholder bonuses	Bonuses are calculated annually on the basis of technical-financial results, and are, in principle only allowed to the extent the technical-financial result is positive. A separate reserve is maintained until approval of the annual accounts by the shareholders. After approval, an allocation to the individual contracts is performed.	Tax deductible in principle. Alternatively, a 9.25% annual tax on profit shares is payable by the company. This latter tax is not deductible for corporate income-tax purposes.
Other special deductions	As provided for by the company.	If duly supported by evidence, should be deducted.

Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Premiums paid, claims recovered and claims paid are recorded in the P&L account on a gross basis.	Generally deductible, however some anti-abuse provisions may apply. For example if the transaction is not real or at arm's length, the reinsurance premium a foreign affiliate or paid to a tax haven company will be added back to the taxable basis.

Mutual companies/Stock companies	Accounting	Taxation
Mutual Companies	Same principles that apply to <u>life</u> insurance companies.	In principle, they are considered non-profit-making companies, only subject to tax on certain components of their income (withholding taxes are usually their final tax charge).

Belgium – Life Insurance - Other Tax Features

Further corporate tax features	Taxation
Loss carry-overs	All tax losses may be carried forward for an unlimited period.
Foreign branch income	Foreign branch income is taxable at the standard rate (i.e. 33.99%) unless exempt by double-taxation treaty.
Domestic branch income	Domestic branch taxable income is calculated according to the ordinary rules, similar to those applicable to resident entities. However, interest charges paid to the foreign head office are not deductible.
Corporate tax rate	The standard corporate income tax rate is 33,99%
Policyholder taxation	Taxation
Deductibility of premiums	A tax break may be available if certain conditions are met.
Interest build-up	N/A.
Proceeds during lifetime	<p>1. For individual assurance products, where no tax break has been obtained on the premiums paid for an individual contract: any proceeds during lifetime are taxed as interest. A 15% withholding tax is due on interest included in the capital sum paid out in case of life and received under a life assurance policy providing a guaranteed return, offering death coverage that is less than 130% of the gross premiums paid, or having an actual term of less than eight years. If interest is included in annuities, there is no withholding tax, but an obligation to declare it in the annual tax return: a 15% tax (plus local taxes) will be due. Profit shares are tax exempt if paid out at the same time as the insured capital sum.</p> <p>2. For group insurance or an individual contract for which a tax break has been obtained: proceeds are taxed as earned income at the marginal rate. The tax rate is reduced to 33%, 16.5% or 10% (plus local taxes) if certain conditions are met. Profit shares are tax exempt if paid out at the same time as the insured capital sum.</p> <p>Some specific life assurance products may benefit from exemptions and/ or reduced taxation rates (e.g. pension schemes). Those must be analysed on a case by-case-basis.</p>
Proceeds on death	<p>1. When no tax break has been obtained on the premiums, an individual assurance contract is tax exempt from personal income tax; however proceeds may be subject to inheritance tax.</p> <p>2. For group insurance or for an individual contract for which a tax break has been obtained: proceeds are taxed as earned income at the marginal rate. The tax rate is reduced to 33%, 16.5% or 10% (plus local taxes) if certain conditions are met. Profit shares are tax exempt from personal income tax, but may be subject to inheritance tax. However, group insurance capital sums are tax exempt under certain conditions.</p>
Other tax features	Taxation
Premium taxes	For individual life assurance policies a 1.1% premium tax is due (except for life assurance policies, related to pension savings) and a 4.4% tax is due on group insurance premiums paid.
Capital taxes and taxes on securities	The registration duty on capital contribution has been discontinued.
Captive insurance companies	Belgium is not a favoured location for captive insurance companies as no legislation exists to provide incentives for their set-up.
Notional Interest Deduction	<p>The deduction for risk capital consists of a lump-sum tax deduction, calculated on the company's 'adjusted' equity, i.e. the accounting equity (share capital plus its retained earnings) reduced by amongst others the following items:</p> <ul style="list-style-type: none"> the fiscal net value of own share held by the company/branch the fiscal net value of financial fixed assets qualifying as 'participations and other shares' the re-evaluation surpluses in respect of assets and capital subsidies. <p>For financial year 2009 (assessment year 2010) the notional interest deduction rate is fixed to 4.473% of this 'adjusted' equity.</p>



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